

**BERKELEY COUNTY MAGISTRATE COURT
MONCK'S CORNER, SOUTH CAROLINA**

**State Auditor's Report on Applying
Agreed-Upon Procedures
June 30, 2008**

**BERKELEY COUNTY MAGISTRATE COURT
MONCK'S CORNER, SOUTH CAROLINA**

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State of South Carolina



Office of the State Auditor

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RICHARD H. GILBERT, JR., CPA
DEPUTY STATE AUDITOR

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October 20, 2008

The Honorable Mark Sanford, Governor
State of South Carolina
Columbia, South Carolina

The Honorable Ava Bryant Ayers, Clerk of Court
Berkeley County
Moncks Corner, South Carolina

This report resulting from the application of certain agreed-upon procedures to certain accounting records of the Berkeley County Magistrate Court System for the period July 1, 2007 through June 30, 2008, was issued by Cline Brandt Kochenower & Co., P.A., Certified Public Accountants, under contract with the South Carolina Office of the State Auditor.

If you have any questions regarding this report, please let us know.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard H. Gilbert Jr.", written in a cursive style.

Richard H. Gilbert, Jr., CPA
Deputy State Auditor

RHGjr/cwc

Richard H. Gilbert, Jr., CPA
Deputy State Auditor
Office of the State Auditor
Columbia, South Carolina

We have performed the procedures described below which were agreed to by the South Carolina Office of the State Auditor solely to assist these users in evaluating the performance of the Berkeley County Magistrate Court System and to assist the South Carolina Office of the State Auditor in complying with the 2007 - 2008 General Appropriations Act (H. 3620) Section 72.75. Ava Bryant Ayers, Chief Magistrate for Berkeley County, is responsible for compliance with the requirements for the Magistrate Court reporting and the South Carolina Office of the State Auditor is responsible for compliance with the requirements of the 2007 - 2008 General Appropriations Act (H. 3620) Section 72.75. This engagement to apply agreed-upon procedures was performed in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of the procedures is solely the responsibility of the specified users of the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The procedures and associated findings are as follows:

1. TIMELY REPORTING BY THE MAGISTRATES

- We researched South Carolina Code of Laws Section 14-17-750 to determine the definition of timely reporting with respect to the Magistrate's responsibility for reporting fines, fees and assessments to the County Treasurer.
- We inquired of the South Carolina Judicial Department to determine their requirements for both the manner in which partial pay fines and fees are to be allocated and the timing of the report and remittance submissions by the Clerk and the Treasurer.
- We inquired of the Magistrate and County Treasurer to gain an understanding of their policy for ensuring timely reporting and to determine how the treasurer specifically documents timeliness.
- We inspected documentation, including the Magistrate Remittance Forms or equivalents for the months of July 1, 2007 through June 30, 2008 to determine if the Magistrate submitted the reports to the County Treasurer in accordance with the law.

We found no exceptions as a result of the procedures.

2. TIMELY ACCURATE RECORDING AND REPORTING BY THE COUNTY

- We traced each month's reporting by the Magistrate to the County Treasurer's Office and to the County's general ledger accounts for the assessments (Sections 14-1-207(A), (B) and (D)) and victim's assistance surcharge (Section 14-1-211) for the period July 1, 2007 through June 30, 2008.
- We compared the amounts reported on the Magistrate Remittance Forms or equivalents to the Magistrate's software system-generated report summaries for three judgmentally determined test months. We tested the system-generated reports for compliance with various laws including Section 35.11 of the General Appropriations Act for the fiscal year 2007 – 2008 and with South Carolina Judicial Department training instructions and interpretations.
- We judgmentally selected and compared individual fine and assessment amounts recorded in the Magistrate's system-generated detail reports to the Judicial Department guidelines' range for the offense code to see if the fine and assessment were within the minimum and maximum range.

Our findings are reported under "TIMELY ACCURATE RECORDING AND REPORTING BY THE COUNTY" in the Accountants' Comments section of this report.

3. PROPER VICTIM'S ASSISTANCE FUNDS ACCOUNTING

- We inquired as to the format determined by County council and local policy for record keeping as it relates to fines and assessments in accordance with Section 14-1-207(E)(4).
- We compared the fiscal year-ended June 30, 2007 audited Victims' Rights Fund fund balance with all adjustments to the fund balance shown in the Schedule of Fines, Assessments and Surcharges on page 74 of the audited financial statement and to the beginning fund balance as adjusted in that fund for fiscal year 2007.
- We judgmentally selected a sample of Victim's Rights Fund reimbursable expenditures and verified that these expenditures were in compliance with Section 14-1-207(E) and Section 14-1-211(B).

We found no exceptions as a result of the procedures.

4. TIMELY ACCURATE REPORTING TO THE STATE TREASURER

- We vouched the amounts reported in the South Carolina State Treasurer's Revenue Remittance Forms to Magistrate Remittance Forms or equivalents for the period July 1, 2007 through June 30, 2008.
- We scanned the South Carolina State Treasurer's Revenue Remittance Forms for timely filing in accordance with Section 14-1-207(B).
- We traced amounts recorded in the County's financial statement Schedule of Fines, Assessments and Surcharges on page 74 of the year ended June 30, 2007 report related to fines and assessments revenues reporting in accordance with Section 14-1-207(E) to supporting schedules used in the audit to comply with Section 14-1-207(E).
- We traced and agreed amounts in the supporting schedules to the Magistrate Remittance Forms or South Carolina State Treasurer's Revenue Remittance Forms.

We found no exceptions as a result of the procedures.

We were not engaged to, and did not conduct an audit the objective of which would be the expression of an opinion on compliance with the collection and distribution of court generated revenue at any level of court for the twelve months ended June 30, 2008 and, furthermore, we were not engaged to express an opinion on the effectiveness of the internal controls over compliance with the laws, rules and regulations described in paragraph one and the procedures of this report. Had we performed additional procedures other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Governor, Chairmen of the House Ways and Means Committee, Senate Finance Committee, House Judiciary Committee, Senate Judiciary Committee, members of the Berkeley County Council, County Clerk of Court, County Treasurer, State Treasurer, Chief Justice and the Office of the State Auditor and is not intended to be and should not be used by anyone other than these specified parties.



August 11, 2008

ACCOUNTANTS' COMMENTS

**BERKELEY COUNTY MAGISTRATE COURT
MONCKS CORNER, SOUTH CAROLINA**
State Auditor's Report
June 30, 2008

VIOLATIONS OF STATE LAWS, RULES OR REGULATIONS

Management of the entity is responsible for establishing and maintaining internal controls to ensure compliance with State Laws, Rules or Regulations. The procedures agreed to by the entity require that we plan and perform the engagement to determine whether any violations of State Laws, Rules or Regulations occurred.

The conditions described in this section have been identified as violations of State Laws, Rules or Regulations.

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TIMELY ACCURATE RECORDING AND REPORTING BY THE COUNTY

ADHERENCE TO JUDICIAL DEPARTMENT FINE GUIDELINES

CONDITION: The Magistrates were not adhering to the Judicial Department minimum and maximum fine guidelines included in legislation.

CRITERIA: Judicial Department Guidelines for Fines – Minimums and Maximums. These guidelines are obtained from the minimum and maximum fines recorded in the respective laws.

CAUSE: The Magistrates are using obsolete fine guidelines.

EFFECT: The Magistrates' fines were not set at the amounts established by the current law.

AUDITORS' RECOMMENDATION: We recommend the Magistrates obtain and use current fine guidelines.

INSTALLMENT PAYMENT ALLOCATION

CONDITION: The Clerk of Court's computer system is not allocating fines paid on an installment basis ratably to all fine, assessment and surcharge categories as required.

CRITERIA: The Judicial Department memo dated June 29, 2007 Section I.A.8 states "When the fine and assessment are paid in installments, Section 35.11 of the Temporary Provisions of the General Appropriations Act suspends Section 14-1-209(B) for the fiscal year 2007 - 2008 and requires that 51.80722% of each installment be treated as a payment towards the assessment. The remaining 48.192771% is treated as a payment towards the fine. The assessment amount must further be divided, with 88.84% being transmitted to the state, and 11.16 being retained by the county for victims' services. Prior to making these computations, you must determine what other assessments may apply (conviction surcharge, DUI assessments, etc.). Those charges must be collected separately and not included in the percentage splits explained above."

CAUSE: The software is not programmed to prorate installment payments.

EFFECT: The County's installment payment allocations are not in compliance with the Judicial Department's directive dated June 29, 2007.

AUDITORS' RECOMMENDATION: We recommend the Clerk of Court consult with its software vendor and have the software vendor program the software to allocate installment payments as required by law. The County should test the program before acceptance to ensure the program modifications are operating properly.

IMPROPERLY ALLOCATING SEATBELT VIOLATION COLLECTIONS

CONDITION: The County's software allocates the seat belt violations to both fine and assessments revenue accounts rather than just to fine revenue.

CRITERIA: South Carolina Code of Laws Section 56-5-6450 states a violator "must be fined not more than twenty-five dollars, no part of which may be suspended. Court costs, assessments, or surcharges may not be assessed against a person who violates a provision of this article."

CAUSE: The software was incorrectly programmed to assess seatbelt violations.

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State Auditor's Report, Continued
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EFFECT: The County was incorrectly allocating collections to assessments and victim assistance fund revenue rather than allocating all collections to fine revenues.

AUDITORS' RECOMMENDATION: We recommend the County consult with its software vendor and have them make the necessary modifications to ensure that the software correctly allocates the \$25 seatbelt violation to fine revenue. The county should determine the amount of the error and provide this information to the State Auditor for verification.

DRUG SURCHARGE OMISSIONS

CONDITION: The County assesses persons convicted of drug violations with a \$100 surcharge which is in addition to all other assessments and surcharges imposed by law. We found that the County's software does not allocate drug surcharge fees.

CRITERIA: South Carolina 2007 - 2008 General Appropriations Act (H. 3620) Part 1B Section 33.7, states "In addition to all other assessments and surcharges required to be imposed by law, during the current fiscal year, a one hundred dollar surcharge is also levied on all fines, forfeitures, escheatments, or other monetary penalties imposed in ... magistrates' ... court for misdemeanor or felony drug offenses. No portion of the surcharge may be waived, reduced, or suspended.

CAUSE: The software was not programmed to allocate drug surcharges.

EFFECT: By not allocating the drug surcharge as required in the law, the County is violating the law.

AUDITORS' RECOMMENDATION: The County should have the software modified to correctly allocate drug surcharges in accordance with the law. The county should remit the surcharges to the State once they determine the amount. This information should be submitted to the State Auditor for verification.



Berkeley County Summary Courts

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P.O. Box 6122

Moncks Corner, S.C. 29461

843-723-3800 ext. 4050, 843-719-4050

843-719-4528 fax

October 15, 2008

Richard H. Gilbert, Jr., CPA
Deputy State Auditor
Office of the State Auditor
Columbia, South Carolina

Dear Mr. Gilbert,

Below are my responses to the Preliminary State Auditor's Report and the four violations reported in the Auditor's comment section.

1. TIMELY ACCURATE RECORDING AND REPORTING BY THE COUNTY

ADHERENCE TO JUDICIAL DEPARTMENT FINE GUIDELINES

CONDITION: The Magistrates were not adhering to the Judicial Department minimum and maximum fine guidelines included in legislation.

CAUSE: The Magistrates are using obsolete fine guidelines.

RESPONSE: The one violation was from Judge Ervin Brown in our St. Stephen office. He had been supplied with the current minimum and maximum fine guidelines but had inadvertently failed to adhere to it on this one ticket. He only charged the defendant the mandatory fees when it was a charge that required a minimum fine as well as the mandatory fees. I have spoken with Judge Brown and have given him another copy of the minimum and maximum fines for the most commonly used charges. I've also impressed upon him the need to verify the fines for charges before entering his sentence.

2. INSTALLMENT PAYMENT ALLOCATION

CONDITION: The Clerk of Court's computer system is not allocating fines paid on an installment basis ratably to all fine, assessment and surcharge categories as required.

CAUSE: The software is not programmed to prorate installment payments.

RESPONSE: We immediately contacted the company we have our software through as soon as we became aware of the problem. They have corrected the problem with the software. The fines,

assessments, and surcharges are being allocated correctly at this time. The software company is also running extensive tests to ascertain why the software made this mistake.

3. IMPROPERLY ALLOCATING SEATBELT VIOLATION COLLECTIONS

CONDITION: The County's software allocates the seat belt violations to both fine and assessments revenue accounts rather than just to fine revenue.

CAUSE: The software was incorrectly programmed to assess seatbelt violations.

RESPONSE: We immediately contacted the company we have our software through as soon as we became aware of the problem. They have corrected the problem within the software and the charge is now being allocated correctly. The software company is also running extensive tests to ascertain why the software made this mistake. We are also in the process of researching all of the cases effected by the software error. Once we have gathered all the information, we will submit it for reimbursement.

4. DRUG SURCHARGE OMISSIONS

CONDITION: The County assesses persons convicted of drug violations with a \$100 surcharge which is in addition to all other assessments and surcharges imposed by law. We found that the County's software does not allocate drug surcharge fees.

CAUSE: The software was not programmed to allocate drug surcharges.

RESPONSE: We contacted the company we have our software through as soon as we became aware of the problem. They have corrected the problem within the software and the surcharges are now being allocated correctly. The software company is also running extensive tests to ascertain why the software made this mistake. We are also in the process of researching all of the cases effected by the software error. Once we have gathered all the information, we will remit any surcharges due to the state.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ava Bryant Ayers". The signature is fluid and cursive, with the first name "Ava" being particularly prominent.

Ava Bryant Ayers
Chief Administrative Judge